Intermec Technologies Corp. v. Palm, Inc.
Doc. 282 Att. 9

EXHIBIT J

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From: Lester L. Levy [mailto:LLevy@wolfpopper.com]
Sent: Friday, October 24, 2008 12:55 PM
To: Lee, Alvin (Perkins Coie); Farzan, Farschad (Perkins Coie)
Subject: Google/Hanson - Summary of Meet and Confer

Alvin-
I have reviewed your email of October 23 (below) and have the following modifications and comments. See red type below.

From: Lee, Alvin (Perkins Coie) [mailto:ALee@perkinscoie.com]
Sent: Thursday, October 23, 2008 2:21 AM
To: Lester L. Levy
Cc: Farzan, Farschad (Perkins Coie)
Subject: Re: Google/Hanson - Summary of Meet and Confer

Lester,

As discussed, please find below a summary of last week's meet and confer on plaintiffs' discovery responses. Please let me know if you have any changes or additions. In addition, let me know if you are available for a follow-up call on October 30 at 11:00 am Pacific time.

Requests for production

General Issues

? You said that you did not know what searches your clients had conducted and that you are unwilling to find out. You told us to ask your clients ourselves at their deposition. The Plaintiffs have diligently searched for responsive documents, consistent with their obligations under the Federal Rules. I told you that I am unwilling to discuss with you my conversations with the clients and that you are free to discuss their searches with them at their depositions.

? You agreed to follow-up to determine whether any document has been withheld on the ground of any privilege.

? You agreed to consider reviewing your clients' tax returns for any documents responsive to any of the requests.

Stern RFPs

You confirmed that Stern has produced all documents responsive to all requests in the first set of RFPs and to requests 13-15, 19, 22-24, 26-32, 34-39, 41, 43-44, 67-69, 72-73, and 76 in the second set, and that he is not withholding any responsive documents based on any objection.

You confirmed that there are no documents responsive to Nos. 18, 20-21, 25, 40, 55-59, 61-64, and 70-71, and that Stern is not withholding any responsive documents based on any objection.

You have now confirmed there are no documents responsive to requests 16-17, 33, 42, 45-54, 60, 65-66 and 74, and that no documents are being withheld on the basis of any objection. Please amend these responses accordingly.

I can confirm that Mr. Stern has produced all responsive documents he has with respect to the above requests and that no documents have been withheld on the basis of any objection.

You asked us to narrow request 75 by limiting it to civil actions involving moral turpitude and criminal actions. We agreed to consider this request.

CLRB Hanson RFPs

You confirmed that CLRB has produced all documents responsive to all requests in this first set and to requests 13-15, 19, 22-24, 26-32, 34-39, 41, 43-44, 69, 74, and 77 in the second set, and that it is not withholding any responsive documents based on any objection.

You have confirmed that there are no documents responsive to requests 18, 20-21, 33, 52, 55-57, 61-65, and 70-73, and that CLRB is not withholding any responsive documents based on any objection.

With regard to document request numbers 16-17, 25, 40, 42, 45-51, 53-54, 58-60, 66-68, and 75-76, you have now confirmed there are no responsive documents and that no documents are being withheld on the basis of any objection. Please amend the responses to these requests accordingly.

I can confirm that Plaintiff CLRB has produced all responsive documents it has with respect to the above requests. We have located one document that we withheld on the grounds of privilege. We are willing to exchange a privilege log with Google at the appropriate time.

Requests for Admission

With regard to all of the RFAs except numbers 7, 9, and 10, you have agreed to consider explaining plaintiffs' understanding of the requests, including their understanding of any terms or phrases to which they object based on vagueness and ambiguity. We will consider amending the response to the above requests.

You have further agreed to consider taking out the quotes around the terms "realized" and "predict" in the responses to RFA Nos. 4 and 6, or in the alternative, to explain plaintiffs' understanding of those terms as used in those responses. We will consider amending the response to the above requests.

We have agreed to consider your request for clarification of the term "RESELLERS" as used in RFA Nos. 9 and 10.

Interrogatories

You agreed to determine whether any responsive information is being withheld on the basis of any objection, including any of the 24 general objections.

You have refused to amend plaintiffs' responses to Nos. 1, 6, 10 and 12, to include all supporting facts, and you stated that you would stand on your stated objections. We have tried to explain to you that it is unreasonable to couch a request by demanding "all" supporting facts. We would have to incorporate hundreds of pages of deposition transcripts in the response, among other things. We believe the response proffered is reasonable in light of the fact that you have already taken the plaintiffs' depositions and that you seek to take their depositions a second time.

You are unwilling to amend plaintiffs' responses to Nos. 2 and 7. You stated that plaintiffs do not have all of the necessary information to calculate their claimed damages, and that Google can calculate plaintiffs' claimed damages for itself. We told you that we have produced all of their account information, including all charge information, and that, therefore, plaintiffs have all the information to calculate their claimed damages. You were unable to identify any information you are missing. You further stated that you needed to take further discovery. We have told you how we would calculate damages, if we had all the information that Google has. Mr. Samet stated in his deposition that he did not produce information on pausing. Nor has Google responded to interrogatories in that area. Accordingly, the totality of damages can not be ascertained until after discovery.

You said you are unwilling to amend plaintiffs' responses to No. 3. See response above.

You said you are unwilling to amend CLRB's response to No. 5. You agreed to consider asking Stern for a specific date to insert into his response to No. 5. CLRB's response it the best it can do in response to the interrogatory.

For No. 9, you agreed to consider asking Stern for additional facts regarding his knowledge of those instances when he allegedly could not meet demand resulting from over-delivery credits.

You said you are unwilling to amend CLRB's response to No. 11 to indicate whether Brett Hanson and Cindy Hanson have been deposed other than as a witness on behalf of CLRB. For Stern's response to No. 11, you agreed to confirm Stern has never been deposed. I will consider amending the CLRB response. Are you willing to limit the request to cases involving moral turpitude and criminal actions? I can confirm that Mr. Stern has not been deposed other than in this action.

We will consider your proposal to amend No. 13 by replacing the phrases "may not have known" or "may not have had" with "did not always have" in plaintiffs' responses. You said you would not amend plaintiffs' responses to provide all supporting facts.

You agreed to consider amending CLRB's response to No. 14 by removing the language "to the extent it understands the interrogatory." You agreed to consider requesting additional information from Stern in response to No. 14.

You said plaintiffs would not provide substantive responses to No. 15, and you stated that you would stand on your stated objections. I will consider amending the response to this interrogatory.

You agreed to consider amending CLRB's response to No. 16 by describing the roles and duties of Brett Hanson. You said that Cindy Hanson had no involvement with AdWords. You agreed to consider amending Stern's response to No. 16 to state that, as the sole operator of his business, he had no roles or duties. I will consider amending the response to this interrogatory.

You said you will consider amending plaintiffs' responses to No. 17 by identifying each portion of their respective contracts with Google that they claim is void or voidable. However, you said you will not add supporting facts. I said I would consider amending the response. For the reasons stated above, responding to an interrogatory as to "all" facts is unreasonable, burdensome and oppressive.

You said you will not amend CLRB's response to No. 18. I will consider whether we should amend this response.

The parties agreed to defer the meet and confer on plaintiffs' responses to Nos. 19 and 20 until the meet and confer on the underlying RFAs are concluded.

We will defer discussion of plaintiffs' responses to No. 21 pending any change in the response to the underlying RFA.

You confirmed that the plaintiffs' responses to No. 22 are the best responses after a reasonable and diligent inquiry and no information is being withheld on the basis of any objection.

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